

UNITED STATES DISTRICT COURT
NEWARK, NEW JERSEYRECEIVED-CLERK
U.S. DISTRICT COURT

2004 JAN 26 P 3:17

BAYARDO A. RIOS.300 DUEL ST. NORTH PLAINFIELDNEW JERSEY 07060.

PLAINTIFF(S)

• vs. •

RONPAK INC.CIVIL NO. 04-303
(JAG)4301 NEW BRUNSWICK AVE.

DEMAND FOR TRIAL BY JURY

SOUTH PLAINFIELD N.J. 07080.YES ☐ NO ☒
(CHECK ONE BOX ONLY)COMPLAINT

1. This action is brought pursuant to Title VII of the Civil Rights Act of 1964, as amended, for employment discrimination. Jurisdiction is specifically conferred on this Court by 42 U.S.C. Section 2000e-5. Equitable and other relief are also sought under 42 U.S.C. 2000e-5 (g).

2. Plaintiff(s) resides at 300 DUEL ST. NORTH PLAINFIELD
Street Address

NORTH PLAINFIELD SOMERSET NEW JERSEY
City County State(908) 769-4394.
Phone Number

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3. Defendant(s) lives at, or its business is located at 4301 NEW BRUNSWICK AVE.
Street Address

SOUTH PLAINFIELD MIDDLESEX NEW JERSEY
County State

(732) 968-8000.
Phone Number

4. Please state the address at which you sought employment N/A.
City

County State

5. State as nearly as possible when the discriminatory acts occurred:

14 MAY 2003.
Day Month Year

5a. If practice is continuing check the appropriate box:

YES N/A. NO

6. State as nearly as possible when you filed charges with the N.J. Division on Civil Rights regarding defendant's alleged discriminatory conduct:

2 SEPT. 2003.
Day Month Year

7. State as nearly as possible when you filed charges with the Equal Employment Opportunity Commission regarding defendants alleged discriminatory conduct: 17
Day

JUNE 2003.
Month Year

8. The Equal Employment Opportunity Commission issued the attached Notice-of-Right-to Sue letter which was received by you on

2 NOV. 2003.
Day Month Year

(Note: Please attach Notice-of-Right-to Sue letter to this Complaint)

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9. The acts complained by you, in this suit, concern:

A. _____ Failure to employ you.

B. ☒ Termination of your employment.

C. _____ Failure to promote you.

D. _____ Other acts (please specify) _____

10. Defendant's conduct is discriminatory with respect to which of the following:

A. _____ Your race

B. _____ Your Color

C. _____ Your Sex

D. _____ Your Religion

E. ☒ Your National Origin

11. A Copy of the charge to the Equal Employment Opportunity Commission is attached to this complaint and is submitted as a brief statement of the facts of your claim.

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12. If relief is not granted, plaintiff will be irreparably denied rights secured by the Title VII of the Civil Rights Act of 1964, as amended.
13. Plaintiff(s) has no adequate remedy at law to redress the wrongs described above.

WHEREFORE, Plaintiff(s) prays (check appropriate letter(s) as follows):

- A. _____ That all fees, costs or security attendant to this litigation be hereby waived pursuant to affidavit of indigence submitted herewith.
- B. ☒ That the Court grant such relief as may be appropriate, including injunctive orders, damages and costs.
- C. _____ That a trial by jury is/is not hereby demanded by the plaintiff.
(Circle one)

RAYARDO RIOS.
SIGNATURE OF PLAINTIFF



JAMES E. MCGREEVEY
Governor

State of New Jersey
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION ON CIVIL RIGHTS
P.O. Box 4600 12/12/03
Newark, NJ 07102

PETER C. HARVEY
Acting Attorney General
J. FRANK VESPA-PAPALEO, ESQ.
Director

Bayardo A. Rios
401 Rt. 22 West Apt. 21-F
North Plainfield, NJ 07060

Re: RIOS VS. RONPAK, INC.
E.E.O.C. Charge No: 171-2003-00645
D.C.R. Docket No: N/A

C. 04303(JAG)

Dear Sir/Madam:


The Equal Employment Opportunity Commission (EEOC) has received the above captioned charge under Title VII of the Civil Rights Act of 1964. Under the current Worksharing Agreement between the Division on Civil Rights and the U.S. Equal Employment Opportunity Commission, the Division is serving a copy of its Addendum and Charge of Discrimination upon you.

Please be advised, that in accordance with this agreement the processing of this complaint will be conducted by the Equal Employment Opportunity Commission, not the Division on Civil Rights.

Once the Equal Employment Opportunity Commission has made a determination concerning this charge and closes its file, the Division on Civil Rights ordinarily adopts the EEOC's determination. However, upon application, and for good cause shown, the Division on Civil Rights will review a no reasonable cause determination by the EEOC to ensure that it comports with standards under the Law Against Discrimination.

If you have any questions regarding the processing or investigation of this charge, please contact the Equal Employment Opportunity Commission.

Very truly yours,


Annie J. Whitley
Coordinator

AW11

Telephone: (973) 648-6262
www.njcivilrights.org



DIVISION ON CIVIL RIGHTS

NJDCR FILE NO. AND EEOC CHARGE NO. 171-2003-60645

ADDENDUM TO CHARGE OF DISCRIMINATION

Explanatory Statement

EEOC and the New Jersey Division on Civil Rights ("NJDCR") have determined by a Worksharing Agreement to provide individuals with an efficient procedure to facilitate the dual filing of charges of employment discrimination with both the EEOC and NJDCR under appropriate New Jersey State and Federal Laws. The purpose of this Addendum is to permit the charging party to complete the process of filing a discrimination charge with the NJDCR.

Verified Addendum to Charge of Discrimination

The undersigned charging party elects to dual-file with the NJDCR in order that all New Jersey State rights are preserved. Accordingly, the charging party hereby alleges a violation of the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1, et seq., and elects to dual file the aforesaid charge of discrimination with the NJDCR pursuant to the current worksharing agreement between the NJDCR and the EEOC. The information set forth in the attached EEOC complaint is hereby incorporated herein in its entirety. In addition, the charging party specifically alleges a violation of the following section(s) of the Law Against Discrimination (check one or both if applicable).



N.J.S.A. 10:5-4 and/or N.J.S.A. 10:5-12 (race, creed, color, national origin, nationality, ancestry, age, marital status, sex, affectional or sexual orientation, reprisal, liability for service in the armed forces of the United States, or atypical hereditary cellular or blood trait).



N.J.S.A. 10:5-4.1 and/or N.J.S.A. 10:5-29.1 (past or present handicap or perceived handicap).

I hereby verify that the information set forth in this Addendum as well as the contents set forth in the EEOC charge of discrimination, which are incorporated herein by reference in their entirety, represent an accurate factual description of the alleged acts of discrimination.

I further verify that I have not instituted action in any court, either civil or criminal, regarding this matter other than the filing of the present charge with the EEOC and NJDCR.

I certify that I have read the foregoing statements and that, to the best of my personal knowledge, information and belief, the facts alleged herein are true. I am aware that if any statement is willfully false I am subject to penalties under law.

Bayardo A. Rio's
CHARGING PARTY (signature)

09.02.03.

DISMISSAL AND NOTICE OF RIGHTS

To: Bayardo A. Rios
401 Rt. 22 West, Apt. 21F
North Plainfield, NJ 07060

From: Newark Area Office
1 Newark Center
21st Floor
Newark, NJ 07102



On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR § 1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

171-2003-00645

Legal Unit

(215) 440-2828

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:



The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans with Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge.



Having been given 30 days in which to respond, you failed to provide information, failed to appear or be available for interviews/conferences, or otherwise failed to cooperate to the extent that it was not possible to resolve your charge.



While reasonable efforts were made to locate you, we were not able to do so.



You were given 30 days to accept a reasonable settlement offer that affords full relief for the harm you alleged.



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, and/or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS** of your receipt of this Notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission



Corrado Gigante,
Area Office Director

Enclosure(s)

OCT 31 2003

(Date Mailed)

cc: Brian M. Cige, Attorney for Charging Party
David W. Morris, for Respondent

FACTS ABOUT FILING AN EMPLOYMENT DISCRIMINATION SUIT IN FEDERAL COURT IN NEW JERSEY

You have received a document which is the final determination or other final action of the Commission. This ends our handling of your charge. The Commission's action is effective upon receipt. Now, you must decide whether you want to file a private lawsuit in court. This fact sheet answers several commonly asked questions about filing a private lawsuit.

WHERE SHOULD I FILE MY LAWSUIT?

Federal District Courts have strict rules concerning where you may file a suit. You may file a lawsuit against the respondent (employer, union or employment agency) named in your charge. The appropriate court is the district court which covers either the county where the respondent is located or the county where the alleged act of discrimination occurred. New Jersey has three federal districts:

The United States District Courts for the District of New Jersey are located at:

✓ Martin Luther King Building & U.S. Courthouse
50 Walnut Street, Room 4015 •
Newark, New Jersey 07101
(973) 645-3730

Clarkson S. Fisher Building & U.S. Courthouse
402 East State Street, Room 2020
Trenton, New Jersey 08608
(609) 989-2065

Mitchell H. Cohen Building & U.S. Courthouse
Fourth & Coopers Streets, Room 1050
Camden, New Jersey 08101
(609) 757- 5021

WHEN MUST I FILE MY LAWSUIT?

Your private lawsuit **must** be filed in U.S. District Court within **90 days** of the date you receive the enclosed final action. Once this 90 day period is over, unless you have filed suit, you will have lost your right to sue.

DO I NEED A LAWYER?

No, you do not need a lawyer to file a private suit. You may file a complaint in federal court without a lawyer which is call a pro se complaint. Every district court has either a clerk or staff attorney who can assist you in filing pro se. To find out how to file a pro se complaint, contact the clerk of the court having jurisdiction over your case who can advise you of the appropriate person to assist you and of the procedures to follow, which may vary from district to district.

Enclosure with EEOC
Form 161 (3/98)

**INFORMATION RELATED TO FILING SUIT
UNDER THE LAWS ENFORCED BY THE EEOC**

*(This information relates to filing suit in Federal or State court under Federal law.
If you also plan to sue claiming violations of State law, please be aware that time limits and other
provisions of State law may be shorter or more limited than those described below.)*

**PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA),
or the Age Discrimination in Employment Act (ADEA):**

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge **within 90 days of the date you receive this Notice**. Therefore, you should keep a record of this date. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed **within 90 days of the date this Notice was mailed to you** (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: back pay due for violations that occurred **more than 2 years (3 years) before you file suit** may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/00 to 12/1/00, you should file suit **before 7/1/02** -- not 12/1/02 -- in order to recover unpaid wages due for July 2000. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice and within the 2- or 3-year EPA back pay recovery period.

ATTORNEY REPRESENTATION -- Title VII and the ADA:

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, **please make your review request within 6 months of this Notice**. (Before filing suit, any request should be made within the next 90 days.)

IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To:

Agency(ies) Charge No(s):

☐ FEPA
☒ EEOC

171-2003-00645

New Jersey Division of Civil Rights

and EEOC

State or local Agency, if any

Name (Indicate Mr., Ms., Mrs.)

Mr. Bayardo A. Rios

Home Phone No. (Incl Area Code)

(908) 755-9742

Date of Birth

03-20-1959

Street Address

City, State and ZIP Code

401 Rt. 22 West, Apt. 21F North Plainfield, NJ 07060

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

RONPAK, INC.

No. Employees, Members

15 - 100

Phone No. (Include Area Code)

(732) 968-8000

Street Address

City, State and ZIP Code

4301 New Brunswick Avenue South Plainfield, NJ 07080

Name

No. Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)

☐ RACE ☐ COLOR ☐ SEX ☐ RELIGION ☒ NATIONAL ORIGIN
☐ RETALIATION ☐ AGE ☐ DISABILITY ☐ OTHER (Specify below.)

DATE(S) DISCRIMINATION TOOK PLACE

Earliest

Latest

05-01-2003

05-01-2003

☐ CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

On October 12, 1989, I was hired by this employer as a Press Machine Operator. This employer does not utilize a formal performance evaluation system; I rate my work performance as "Good".

On May 1, 2003, I was assigned to work in the Sheeting-Printing Dept. I complained about the unsafe working conditions in that department. Dwayne Bender (non-Hispanic), my immediate Supervisor, terminated my employment. On May 4, 2003, I grieved the matter. On May 14, 2003, I received a discharge letter for insubordination.

In 2002, Richard Peterson (non-Hispanic), complained about unsafe work conditions and refused to perform work because of such; he only received a 3-day suspension.

I believe that I have been discriminated against by being discharged because of my national origin (Hispanic), in violation of Title VII of the Civil Rights Act of 1964, as amended (Title VII).

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY - When necessary for State and Local Agency Requirements

I declare under penalty of perjury that the above is true and correct.

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

Bayardo A. Rios

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)

Sep 02, 2003

Date

Charging Party Signature

9/02/03